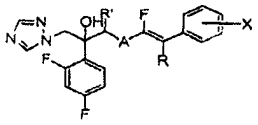
REMARKS

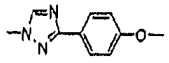
The rejection of claims 1 and 3 under 35 USC 103(a) as being unpatentable over Itoh et al (USP 5,371,101) in view of Kim et al (USP 6,552,080) is respectfully traversed. Moreover, since claim 2 has been cancelled and the subject matter thereof combined into claim 1, the rejection of claim 2 as being unpatentable over Itoh '101 in view of Kim '080 in combination with Boyle et al (ANN NY Acad Sci 544:86-100, 1988) will hereafter be treated as a rejection of claim 1.

Claim 1, as amended, is directed to an azole derivative of



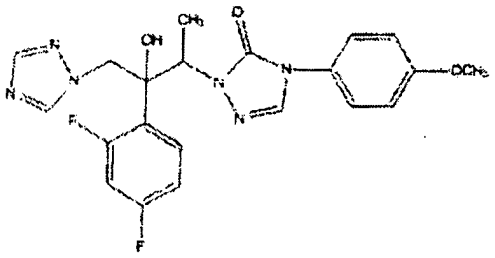
or a

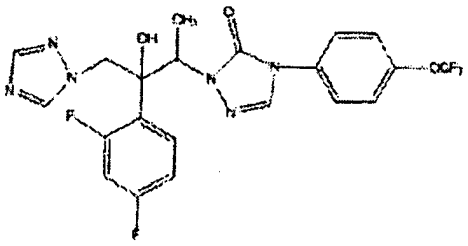
pharmaceutically acceptable salt, an isomer or an ester thereof, wherein A is O or

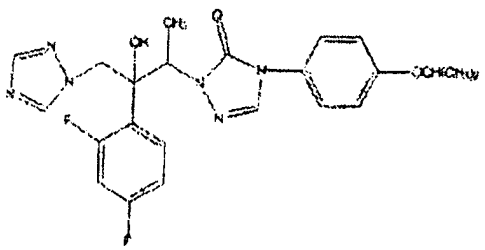


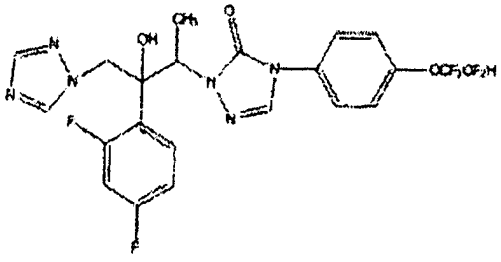
; R is H or CF_3; R' is H or C_{1-4} alkyl; X is H, halogen, C_{1-4} alkyl, haloalkyl, alkoxy or 3,4-dioxyalkylene.

The cited reference Itoh et al '101 discloses several antifungal compounds such as



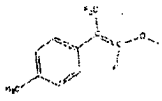


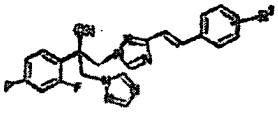


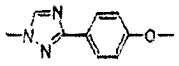


and

However, the antifungal compounds of the two inventions are clearly distinct from each other in that the triazole substituent of the subject invention is not oxygenated.

The cited reference Kim et al '080 discloses a fungicidal compound having a fluorovinyl moiety represented by  useful for protecting crops from fungal diseases. However, the core structure of the fungicidal compound is explicitly different from that of the inventive compound.

Moreover, D3 discloses a compound containing a non-oxygenated triazole in Table 5, i.e.,  . However, the compound of D3 does not contain a phenol moiety attached to a triazole or a fluorovinyl moiety.

Accordingly, neither Itoh '101, Kim '080 or Boyle et al disclose a compound of formula (I) wherein A is O or  .

In addition to such constitutional differences, the inventive compounds have high antifungal activity against a wide spectrum of pathogenic fungi (*see* page 48, line 1 to page 50, line 12 of the subject specification), and low toxicity to minimize hepatic toxicity and toxicity of oral administration (*see* page 50, line 14 to page 51, line 20 of the subject specification).

Accordingly, the subject invention is clearly patentable over the teaching in Itoh et al '101, Kim et al '080 and Boyle et al taken individually or in combination and the rejection under 35 USC 103(a) should be withdrawn.

Reconsideration and allowance of claims 1 and 3, as amended, is respectfully solicited.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this Response is being submitted to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 via EFS-Web on April 7, 2009.